

Excluding Low-Income Households from Ontario Communities

ACTO has won an important victory in the fight against local government using their planning powers to exclude low-income tenants from new housing created through urban re-development. ACTO argued at the Ontario Municipal Board (OMB) that human rights principles must be applied to the cases before them and that local governments must recognize that poor and disabled people - including people with mental illness - are members of the community and not “problems” to be dealt with.

ACTO appealed to the OMB from the decisions of Kitchener City Council and the Region of Waterloo to approve by-laws and Municipal Plan amendments that applied to new developments in a downtown Kitchener neighbourhood called Cedar Hill. These laws banned all forms of residential care, group homes, rooming houses, and non-profit services from Cedar Hill. To stop subsidized or supportive housing development, it would be illegal to build any housing in the neighbourhood except single detached homes. Exceptions to allow larger buildings could be made by the City Council on a case-by-case basis with the intent that developments that included any element of subsidized or supportive housing would not be approved.

The OMB, in a preliminary ruling, gave the City of Kitchener fifteen months to revise the laws to address the requirements of the Ontario Human Rights Code, the Canadian Charter of Rights and Freedoms and provincial and regional planning policies. All of these laws support accessibility to housing and services by disabled and low-income people and must be followed by local governments when they approve by-laws. The OMB also suggested that Kitchener was using illegal “people zoning” and that there was no legal authority to approve development proposals in Cedar Hill on a site-by-site basis instead of planning for the future.

Kitchener argued that “those people” could just go elsewhere and that a small violation of human rights could be allowed if it was for the “greater good”, Mr. M. C. Denhez, the OMB Member who heard the case, said in his preliminary ruling “The world has heard those arguments before.” After considering the OMB’s strong support for human rights principles and the positive changes that increased resources had made in Cedar Hill, Kitchener City Council voted to do the right thing and repealed the restrictive by-laws. The OMB was informed of this and dismissed ACTO’s appeal.